

January 25, 2021 Draft

**Town of Rockport
An Ordinance to Regulate Short-Term Rental Property**

PART I. The Rockport Land Use Ordinance is amended as follows:

1. The following shall be added at the end of the current definition of Commercial Use in Section 302 of the Land Use Ordinance:

Notwithstanding the above, Commercial Use shall include the activity of Non-Owner Occupied Short-Term Rental.

2. The following definitions shall be added to Section 302 of the Land Use Ordinance:

- a. **Owner Occupied Short-Term Rental (STR) Property:** A Dwelling Unit(s) or Residential Structure which at the time of the Short-Term Rental, is occupied by the owner or the owner occupies another Building on the same or Abutting Property. The owner shall be the person who owns the real property or is the beneficiary of a revocable living trust that owns the property.
- b. **Non-Owner-Occupied Short-Term Rental (STR) Property:** A Short-Term Rental of a Dwelling Unit(s) or Residential Structure which is not an Owner Occupied Short-Term Rental Property.
- c. **Short-Term Rental (STR)** means the rental of a Dwelling Unit(s) or portion of a dwelling unit three (3) or more times in a calendar year with a rental duration of less than thirty (30) days for each such rental.
- d. **Short-Term Rental (STR) Property:** Includes Owner Occupied STR Property and Non-Owner Occupied STR Property.

3. The following shall be added to the Section 604.1 of the Rockport Land Use Ordinance dealing with Inspection of Rental Dwelling Units(s):

In addition, the Code Enforcement Officer, Fire Chief or their designee(s) shall have the authority to inspect any Non-Owner Occupied Short-Term Rental Property.

4. The following uses shall be added to Section 917 Land Use Table of the Rockport Land Use Ordinance
 - a. Section 917(B) shall be amended to add Owner Occupied STR as a Residential Use permitted in the following districts: 901, 902, 903, 904, 905, 906, 907, 908, 909, and 913.

- b. Section 917(C) shall be amended to add Non-Owner Occupied STR as a Commercial Use, with Conditional Use in Districts 901, 902, 903, 904 and 913 and as a permitted use in 905, 906, 907, 908, and 909.

Part II. Short Term Rental Registration Ordinance

Section 1. Title

This Ordinance shall be known and may be cited as the Short-Term Rental Ordinance

Section 2. Purpose

Regulation of Short-Term Rentals is necessary to achieve a balance between the competing interests represented by a Town that is both a desirable tourist Town and one that values its neighborhoods and the community that is created by long-term residents. This Ordinance affirms the Town of Rockport's application of standards of habitability and life safety to residential rental units and allows Short-Term Rentals subject to provisions designed to: (1) protect renters; (2) preserve long-term rentals; (3) grandfather certain existing Short-Term rentals; and (4) maintain the quiet enjoyment of residences in Rockport's neighborhoods. The requirements of this Ordinance do not apply to District 909, Rockport Hospital and Resort District.

Section 3. Regulation of Short-Term Rentals

3.1 Registration of Short Term Rental Property

As of September 1, 2021, no person or entity shall operate an Owner Occupied STR or Non-Owner Occupied STR Property in Rockport without annually registering as specified below and obtaining a registration from the Code Enforcement Officer. The registration shall include, but not be limited to:

- A. A completed registration form that includes the following information:
 - 1. Number of units available for STR;
 - 2. Policy number, insurer and limits of liability available to protect STR renters;
 - 3. Name and complete contact information for the owner, including a 24-hour available telephone number for a responsible agent for all Non-Owner Occupied STRs;
 - 4. Evidence of right, title and interest in the property;
 - 5. For Non-Owner Occupied STRs, evidence pursuant to Section 3.17 that the property is an existing STR or, after the expiration of the 2-year temporary prohibition provided in Section 3.16, evidence that the Planning Board has approved the operation of the STR as a Conditional Use;
- B. A non-refundable fee as determined by the Select Board.

C. A self-compliance affidavit, on a form provided by the Town, signed by the owner under penalty of perjury, that the STR Property complies with state and local building codes, zoning, and habitability and life safety requirements for rental properties as set forth in §604.2 of the Rockport Land Use Ordinance.

D. During the initial first year registration period, an Owner Occupied STRs may continue to operate as long as the owner submits the required registration form by September 1, 2021.

E. Registration renewal forms must be submitted 30 days prior to the expiration of the existing registration. Provided the owner has not changed any information and is in compliance with all current requirements for the existing STR, the STR may continue operating under the prior registration pending issuance of the renewal registration. The STR owner must promptly respond to any requests for additional information by the Code Enforcement Officer for processing the registration renewal.

3.2 Number of Registrations

A person or entity may register no more than two (2) STR Properties. In addition, a person or entity may register an additional STR Property for every three (3) non-STR Dwelling Unit(s) or Residential Structures that said person or entity offers for residential lease in Rockport.

3.3 Display of Registration Number

STR registration cards with a registration number shall be issued by the Code Enforcement Officer upon approval of the STR registration for each approved STR Property. All STRs shall: (a) display the registration card in a prominent place on the STR Property; and (b) include the registration number in all advertising of the STR Property, including but not limited to website, emails, print media, television and radio.

3.4 Transfer of Registrations

Registrations are not transferable to a new owner upon sale of the STR Property. Any change in ownership or change in the officers of an owner shall require a new registration. Registrations are limited to the location for which they are issued and shall not be transferable to a different location. However, if an owner dies and leaves the STR Property to a relative(s) through inheritance, the registration shall remain effective as to the new owner of the STR Property for the remainder of the term of the registration.

3.5. Responsible Agent

A. Each owner of a Non-Owner Occupied STR Property shall designate a person or entity to serve as the responsible agent. The owner of an Owner-Occupied STR Property shall serve as the responsible agent unless another responsible agent is designated.

- B. The responsible agent shall have access and authority to assume management of the STR Property and take remedial measures, as necessary. The responsible agent shall be available twenty-four (24) hours a day, seven (7) days a week to respond to complaints from neighbors, the Police Department or the Code Enforcement Officer with respect to the STR Property and violations related to this Ordinance that affects a neighbor's quiet enjoyment of their property.
- C. The designated responsible agent and that individual's contact information shall be provided by the STR owner to all abutters to the STR Property upon registration of the STR Property for such use.

3.6 Inspections

The Code Enforcement Officer may inspect any STR Property with respect to whether:

- A. The number of bedrooms declared in advertising, or are otherwise available for use, is greater than that listed on the registration card issued by the Code Enforcement Officer;
- B. The number of bedrooms advertised, or otherwise available for use, is greater than the on-site wastewater system or sewer system permitted for that property; or
- C. Information on the relevant registration application has been falsified.

3.7. Number of STR Rentals for Non-Owner Occupied STRs

Each Non-Owner Occupied STR shall be for a minimum of at least four (4) consecutive nights. Guests may stay for less than the minimum stay provided that such STR Property remains vacant until the end of the minimum stay period.

3.8 Signage

Notwithstanding Section 1101 of the Rockport Land Use Ordinance, yard signs or wall signs are limited to one (1) sign in the yard or on the building identifying the property no less than ten (10) feet from the edge of the street.

3.9 Occupancy Limits

- A. Each STR Property shall have a maximum capacity per bedroom of two (2) adults plus two (2) children under the age of twelve (12);
- B. The number of bedrooms declared on the STR Property registration pursuant to §1.1 and §1.2 shall not exceed the number listed on the building permit issued by the Town; and

- C. The number of bedrooms for any STR Property shall not exceed that approved by the Code Enforcement Officer for compliance with the approved septic or sewer plan for that property.

3.10 Parking

No registration for a STR Property shall be issued unless off-street parking is provided. Each STR Property shall have one (1) off-street parking space, plus one (1) additional off-street parking space for each Dwelling Unit. Parking is prohibited if it blocks egress from adjacent resident driveways, sidewalks, alleys or mailboxes or blocks fire rescue from accessing adjacent properties. Violations of this provision are subject to immediate removal of the offending vehicle and further penalties against the STR owner as described in Section 3.18.

3.11 Information from Rental Agencies

Rental agencies doing business in the Town of Rockport by placing renters with Rockport STR Properties shall include the registration number of each STR Property in all its advertisements related thereto.

3.12 Prohibited Activities

- A. Offering for rent an STR Property prior to the issuance of a registration;
- B. Providing false information on a STR registration application;
- C. Offering STR in a structure not permitted by Rockport Ordinances for human habitation;
- D. Attempting to transfer a registration to a new owner without approval of the Code Enforcement Officer; and
- E. A guest or Non-Owner attempting to sublease or assign any portion of a STR Property to another person during the rental period.

3.13 Noise and Other Complaints

- A. Complaints about noise, parking, traffic and rowdy behavior related to a STR shall be directed to the Code Enforcement Officer or Police Department which shall notify the owner and responsible agent of the STR Property.
- B. Complaints directed to the Police Department shall be conveyed to the Code Enforcement Officer who shall maintain a log of all complaints, seek to correct or resolve such complaints, and consider such complaints in assessing fines pursuant to Section 3.18 and/or suspending, revoking and non-renewing the registration for the STR Property.

3.14. Limitations on Non-Owner Occupied STR Property

- A. A Non-Owner Occupied STR Property may not be located within 1,000 feet of the property line of another Non-Owner Occupied STR Property. Distance is measured as the most direct, level, shortest, without regard to the intervening structures or objects, straight line distance between the property line of the parcels on which a Non-Owner Occupied STR Property is located. A Non-Owner Occupied STR Property may contain up to two STR Rentals on the same parcel or in the same building.
- B. The number of Non-Owner Occupied STRs registered in a single calendar year shall not exceed 1.5 times the number of Non-Owner Occupied STRs previously in operation registered pursuant to §3.17. Non-Owner Occupied STRs previously in operation and registered pursuant to §3.17 have priority for purposes of this cap.

3.15 Denial, Suspension or Revocation of Registration

- A. The Code Enforcement Officer may suspend, decline to issue or renew any registration for any STR Property upon failure of the applicant to meet all the requirements of this or any other relevant Ordinance. In such event, the Code Enforcement Officer shall notify the owner of the STR Property in writing by email and letter within two (2) business days of such decision;
- B. If a STR Property is the subject of two (2) or more substantiated violations of any state or local law or ordinance, the Code Enforcement Officer may suspend or revoke the registration for the STR Property. In such event, the Code Enforcement Officer shall notify the owner of the STR Property of such revocation or suspension in writing by email and letter within five (5) business days of the decision; and
- C. It shall be the responsibility of the owner of the STR Property to advise renters and any rental agencies, that the STR Property will not be available for rental until the registration is reinstated.
- D. Appeal. An appeal to Board of Appeals as an Administrative Appeal may be taken by any person aggrieved by a determination of the Code Enforcement Officer pursuant to Section 703 of the Land Use Ordinance.

3.16 Temporary Prohibition on Additional Registrations

Upon adoption of this Ordinance, there shall be a two (2) year prohibition on the acceptance of registrations for Non-Owner Occupied STRs that are not previously in operation subject to Section 3.17, and that are located in zoning districts 901, 902, 903, 904 and 913. The intent of the prohibition is to allow the Town to study the information received through the registration process and consider what, if any, additional or different STR regulation may be appropriate in the more densely populated zoning districts. If no additional or amended STR regulation is enacted, the registration process described in this Ordinance shall recommence two years after the effective date of this Ordinance.

3.17 Non-Owner Occupied STRs Previously in Operation

- A. Non-Owner Occupied STRs which were in operation at any time two (2) years before December 31, 2020, do not need Planning Board conditional use approval as a condition of receiving STR registration if: (a) the owner provides evidence sufficient for the Code Enforcement Officer to determine that the property was used for STR purposes at some time during the two (2) years prior to Dec. 31, 2020; (b) the STR Property is in compliance with the parking requirements pursuant to Section 3.10 of this Ordinance; and (c) the owner submits the required registration form by September 1, 2021.
- B. Such status does not relieve the owner from having to apply annually for registration for STR use.
- C. Planning Board conditional use approval, if applicable, is required upon transfer of the STR Property through a sale, conveyance, or otherwise before the issuance of a new STR Registration. However, if an owner dies and leaves the STR Property to a relative(s) through inheritance, Planning Board approval is not required prior to the issuance of a new registration pursuant to Section 3.17(A) above.
- D. A Non-Owner Occupied STR that qualifies under this section is not subject to the distance requirements in Section 3.14(A) of this Ordinance.

3.18 Violations and Penalties

This Ordinance shall be enforced by the Code Enforcement Officer, who may institute any and all actions to be brought in the name of the Town subject to the following provisions:

- A. For operating an STR without a registration pursuant to this Ordinance, the owner of the STR Property shall be penalized \$100 per day for the first offense and \$150 a day for any additional offense for each STR Property which is operated without a registration;
- B. For violation of occupancy limits, the owner of a STR Property shall be fined \$100 per day for the first offense and \$150 per day for any additional offense for each STR Property that exceeds the occupancy limits;
- C. For providing false information in the application for STR Registration, the owner of the STR Property shall be fined \$1000; and
- D. For failure to comply with any other section of this Ordinance, the owner of the STR Property shall be fined \$100 per day which fine shall be in addition to any applicable fine above.

3.19. Definitions. The definitions in Section 302 of the Land Use Ordinance apply to this Ordinance unless terms are otherwise defined herein.

3.20. Applicability. This Ordinance does not apply to any STRs located in the Rockport Hospital and Resort District (909).

3.21 Severability. The provisions of this Ordinance are severable, and if any provision shall be declared to be invalid or void, the remaining provisions shall not be affected and shall remain in full force and effect.

Part III. Effective Date.

This Ordinance to Regulate Short-Term Rental Property shall become effective seven days after adoption by Town Meeting.

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